

**RESOLUTION NO. 2018-58
INTRODUCED BY: ADMINISTRATION**

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDMENT TO THE COMMUNICATIONS SITE LEASE AGREEMENT WITH NORTHCOAST COMMUNICATIONS LLC, BY REASON OF ASSIGNMENT NOW WITH AERIAL REALTY, LLC, REGARDING AN ANTENNA AND APPURTENANCES LOCATED UPON THE REAL PROPERTY KNOWN AS CUYAHOGA COUNTY AUDITOR'S PERMANENT PARCEL NO. 711-24-041 AND DECLARING AN EMERGENCY

WHEREAS, a Communications Site Lease Agreement was executed by and between Northcoast Communications, LLC and the City of Lyndhurst on or about June 10, 1998; and

WHEREAS, Northcoast Communications, LLC has previously assigned all of its right, title and interest in and to the Lease to Aerial Realty, LLC doing business at 330 Motor Parkway, Suite 205, Hauppauge, New York 11788; and

WHEREAS, Aerial Realty, LLC has previously exercised its options to renew the Lease for additional terms of five (5) years pursuant to paragraph 4 of the Lease, the most recent renewal terminating on January 31, 2019; and

WHEREAS, Aerial Realty, LLC has indicated it wishes to renew the Lease for an additional five (5) year term, terminating on January 31, 2024; and

WHEREAS, T-Mobile has requested that Aerial Realty, LLC allow it to place communications equipment on the Tower (as defined in the Lease) which is the subject, in part, of the Lease, and to obtain storage space for its related equipment in the City's contiguous building located on the City's property (as defined in the Lease); and

WHEREAS, the City and Aerial Realty, LLC have now agreed to clarify the interior basement space on the City's Property that may be utilized by Aerial Realty, LLC pursuant to the Lease for the benefit of Aerial Realty, LLC and the carriers that will place equipment on the Tower, which will benefit both the City and Aerial Realty, LLC due to the revenue sharing that is provided for in the Lease. Now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNDHURST, COUNTY OF CUYAHOGA, STATE OF OHIO, THAT:

SECTION 1. This Council determines that continuing the use of an antenna with appurtenances on the real estate known as Cuyahoga County Auditor's Permanent Parcel No. 711-24-041 will not interfere with the City's use of the property for municipal purposes.

SECTION 2. By reason of assignment the current Lessee is Aerial Realty, LLC.

SECTION 3. The City acknowledges notice provided by Aerial Realty, LLC, to renew the Lease for an additional five (5) years to January 31, 2024.

SECTION 4. The Mayor is hereby authorized to enter into an Amendment to the Communications Site Lease Agreement with Northcoast Communications, LLC, by reason of assignment now with Aerial Realty, LLC, regarding an antenna and appurtenances located on a portion of the real property known as Cuyahoga County Auditor's Permanent Parcel No. 711-24-041.

SECTION 5. The Director of Law is instructed to prepare and approve such Lease as to January.

SECTION 6. That all other terms and conditions of the original Lease shall remain in full force and effect.

SECTION 7. This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

SECTION 8. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the residents of the City of Lyndhurst for the reason that it is necessary to implement the aforesaid Amendment immediately and without delay so that the City may continue to receive income from the Lease. Therefore this Resolution shall take effect immediately upon the affirmative vote of not less than five members elected to Council, and signature by the Mayor, or otherwise at the earliest time allowed by law.

PASSED: August 6, 2018

MAYOR

VICE MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Ordinance by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City, on August 16, 2018 and August 23, 2018.

Clerk of Council

First Reading: August 6, 2018

Second Reading: Suspended

Third Reading: Suspended